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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,000	11/26/2003	Gina Sparacino	P06359US00	9566

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EXAMINER

NGUYEN, SON T

ART UNIT PAPER NUMBER

3643

DATE MAILED: 08/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/723,000

Applicant(s)

SPARACINO

Examiner

Son T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1,2,5,6,8-13,16,18** are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5347797 on form PTO-1449 (herein 797).

For claims 1 & 8, 797 discloses an auxiliary saddle stirrup 5 for facilitating mounting of a horse having a saddle 3 secured thereon, comprising: a strap 1 having an upper end (near ref. 2) and a lower end (near ref. 4); a foot loop (just below ref. 4) on the lower end of the strap. However, 797 is silent about, the upper end being attachable to the saddle at a location rearwardly remote from a primary stirrup on the saddle and the foot loop being positioned behind and below the primary stirrup when the strap hangs down from the saddle. It would have been an obvious substitution of functional equivalent to substitute the upper end being attachable to the saddle at a front location remote from a primary stirrup on the saddle and the foot loop being positioned ahead and below the primary stirrup 10 when the strap hangs down from the saddle as taught in 797 with the upper end being attachable to the saddle at a location rearwardly remote from a primary stirrup on the saddle and the foot loop being positioned behind and below the primary stirrup when the strap hangs down from the saddle as claimed by the

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present invention, since both locations of strap would perform to allow a rider to safely mount the horse. Also, see remarks below.

For claims 2 & 10, 797 discloses wherein the strap has an adjustable length (see figs. 2 & 4).

For claims 5 & 16, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a friction surface in the loop of 797 to prevent slipping, since it is notoriously well known in the art to have friction surface on surface of the stirrup to prevent a rider from slipping.

For claims 6 & 12, 797 discloses wherein the upper and lower ends each includes a snap to secure the ends together in a storage position (see figs. 2 & 4).

For claim 9, 797 discloses a ring 7 on the saddle to secure the auxiliary stirrup 5 thereto. However, it is not behind the seat. Please see the above claim 1 and the remark below for explanation regarding substitution of functional equivalent in placing the strap behind or in front of the seat.

For claim 11, 797 discloses wherein the auxiliary stirrup has upper and lower ends adapted to be secured together in a storage position (as shown in fig. 2).

For claim 13, the elongated strap with ends as shown in fig. 1 of 797.

For claim 18, 797 discloses a method for a rider to mount a horse having a saddle secured thereto, comprising: placing the rider's right foot into a first stirrup 5 hanging from the saddle, then stepping up on the first stirrup; then placing the rider's left foot into a second stirrup 10 hanging from the saddle, and without crossing the rider's legs; then stepping up on the second stirrup, removing the right foot from the first

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stirrup; and then swinging the rider's right leg over the horse so that the rider is seated in the saddle (see fig. 6 and col. 2, lines 60-68, col. 3, lines 1-5). However, 797 is silent about the first stirrup being behind and below the second stirrup. It would have been an obvious substitution of functional equivalent to substitute the upper end being attachable to the saddle at a front location remote from a primary stirrup on the saddle and the foot loop being positioned ahead and below the primary stirrup 10 when the strap hangs down from the saddle as taught in 797 with the upper end being attachable to the saddle at a location rearwardly remote from a primary stirrup on the saddle and the foot loop being positioned behind and below the primary stirrup when the strap hangs down from the saddle as claimed by the present invention, since both locations of strap would perform to allow a rider to safely mount the horse. Also, see remarks below.

3. **Claims 3,4,7,14,15** are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5347797 on form PTO-1449 (herein 797) in view of US 4608812 (herein 812).

For claims 3 & 14, 812 teaches an auxiliary stirrup 46 having a strap 10 that has at least two elongated members 20,21 adjustably secured together. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the strap of 797 with at least two members as taught by 812 in order to have a longer strap and allow easier adjustability.

For claims 4 & 15, in addition to the above, 812 further teaches a buckle 27,30. It would have been obvious to one having ordinary skill in the art at the time the invention

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was made to employ a buckle as further taught by 812 in the strap of 797 as modified by 812 in order to secure the two members of the strap together and allow adjustability.

For claim 7, the strap of 797 as modified by 812 has two ends that are releasably connected together.

4. **Claim 17** is rejected under 35 U.S.C. 103(a) as being unpatentable over US 5347797 on form PTO-1449 (herein 797) in view of US 918212 (herein 212). 212 teaches a stirrup b with a strap d having an upper end that is releasably connected to a saddle seat (see fig. 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the upper end of the strap of 797 be connected in a releasable manner to the saddle seat as taught by 212 in order to allow a rider to release the strap from the saddle for storage or the like.

Remarks

5. In searching for patentable subject matter, the Examiner noted that all prior arts do not show the strap being mounted behind the seat of the saddle, thus, the Examiner relies on the specification for a critical reason why the strap had to be mounted behind the seat. However, upon reading the specification, there was not a critical reason pointed out that may distinguished it from the prior arts. All critical reasons provided in the specification were pretty much the same as the prior art, esp. US 5347797.

Explanation in the specification only states general concept of usage of an auxiliary stirrup. For example, on page 1, paragraph 4, Applicant states that the auxiliary stirrup used in 797 would require a rider to cross his/her legs when mounting a horse. This is not so in the teaching of 797, for throughout 797's patent, there is no mentioned that the

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rider would have to cross his/her legs when mounting the horse. In contradiction, 797 shows similar mounting style as that of the present invention, i.e. right leg on the auxiliary stirrup, left stepped on primary stirrup, swinging the right leg to mount the horse (see figs. 6-8 and col. 2, lines 60-68, col. 3, lines 1-5). Furthermore, on page 2 of the present invention, the objectives are similar to that of 797, even with the strap being mounted rearwardly, so there seems to lack a critical reason why mounting the strap rearwardly of the saddle would be better than mounting the strap in front as taught in 797. Moreover, on page 4, paragraph 3, Applicant states that by having "the foot loop 28 located below and behind the main stirrup 16, a rider can face the horse for mounting, which can be quickly and easily accomplished without a crossover step or crossing the legs", which to the Examiner, is the same as taught by 797 by mounting the foot loop ahead of the main stirrup because the rider, as shown in fig. 6, still faces the horse for mounting, which is the same as shown in fig. 3 of Applicant's invention. Therefore, it is deemed that by placing the strap in front or behind the seat of the saddle would merely be a substitution of functional equivalent whether the strap was placed in front as taught by 797 or behind as claimed by Applicant of the seat of the saddle, for both mounting styles would allow a rider to mount the horse easier.

Response to Arguments

6. Applicant's arguments filed 6/10/04 have been fully considered but they are not persuasive.

Applicant argued that "the auxiliary or second stirrup 5 of Seal is in front of the primary stirrup, as seen in Figure 6. With the rider's right foot in the front

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stirrup 5 of Seal, the rider must cross his/her legs in order to place their left foot in the rear primary stirrup”.

As mentioned in the remarks above, nowhere in the disclosure of Seal et al. states that the rider must cross his/her legs in order to place the left foot in the rear primary stirrup. It is clearly shown in figs. 6-8 that crossing over of legs does not occurred because fig. 6 shows that the right foot is stepped on the stirrup 5, which is longer than stirrup 10, and then left foot is stepped on stirrup 10 (fig. 7), and then right foot swings over the back of the horse. Stirrup 5 is in front of stirrup 10 so there shouldn't be any cross over as alleged by Applicant. This concept is very much similar to that of Applicant if one was to call the stirrup 5 of Seal primary stirrup and stirrup 10 being auxiliary stirrup, thus, demonstrating that there is no cross over of legs existing. Note, the Examiner is not saying that stirrup 10 is auxiliary or stirrup 5 is primary because, clearly, stirrup 10 is primary for one skill in the art to recognize. However, the Examiner is saying that there is no cross over of legs in Seal et al. and that placement of secondary stirrup 5 in the front in Seal et al. instead of in the back as claimed in the present invention is substitution of equivalent because both front or rear would perform the same function without crossing over (see remarks above).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is (703) 305-0765. The examiner can normally be reached on Monday - Friday from 9:00 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at (703) 872-9325. The official fax number is 703-872-9306.



Son T. Nguyen
Primary Examiner, GAU 3643
August 24, 2004